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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/635,973	08/07/2003	William W. Hooper JR.	8495-PA01	1264

7590 11/26/2004

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EXAMINER

GROSZ, ALEXANDER

ART UNIT	PAPER NUMBER
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3673

DATE MAILED: 11/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/635,973

Applicant(s)

HOOPER, WILLIAM W.

Examiner

Alexander Grosz

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE THREE MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10/18/04
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 34, 17-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 5-16, 21-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 5/27/04, 10/23/03
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

Applicant's election without traverse of the species of figures 1-4, 8, 9 in the reply filed on 10/18/04 is acknowledged.

Claims 3, 4, 17-20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 10/18/04.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 5, 6, 7, 8, 9, 11, 12, 13, 14, 15, 16, 21, 22, 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gladney (US2004/0078897, with a provisional application filing date of July 11, 2002) teaching applicant's basic device, but not a corner support with a bore for a leg, in view of Broyles, teaching the use of a similar device including a bore for a leg (Fig. 3, 4), further in view of German publication No. 1930227, Schneider et al (note col. 1, lines 56, 57) or Robinson (note paragraph bridging columns 3 and 4) all teaching the use of conventional expanded rigid foam materials in making bed foundations.

In Gladney note especially paragraphs 0006, 0008, 0009 (lines 3, 4), 0017, 0018, 0027, 0029, 0031, and 0037; and the unlabelled openings shown in the sidewalls in figures 1-4.

Gladney clearly suggests the use of known, molded plastics (paragraphs 0017; 0018; 0027) such as the expanded rigid plastic foams claimed by applicant.

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It would have been obvious to one ordinarily skilled in the art the time the invention was made to have used a corner leg support with a bore in Gladney's foundation instead of the legs taught in Gladney (e.g. paragraph 0009) because Broyles recognizes the use of the claimed bore in a similar foundation.

While Gladney suggests the use of conventional plastics, including rigid foams, as the material of construction for its foundation, German publication No. 227; Robinson, and Schneider et al et al are further relied on for the explicit teachings of using conventional expanded rigid plastic foam materials in making foundations.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gladney, in view of Broyles, German publication No. 227, Schneider et al or Robinson as applied to claim 7 above, and further in view of Saputo, teaching the use of large cutouts (col. 2, line 50, 51; Fig. 1) in a molded plastic foundation.

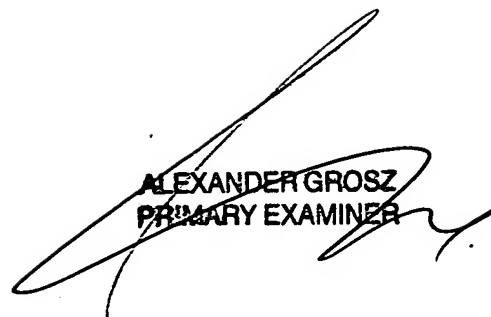
It would have been obvious to one ordinarily skilled in the art at the time the invention was made to have provided "large" openings in Gladney's foundation (as modified above) instead of its smaller ones, because Saputo recognizes the desirability of using "large" opening in a similar foundation, in order to save materials, and provide ventilation.

Obriot (note col. 4, lines 29-38) teaching the use of semi-rigid foams in making a frame, Leskin (note fully horizontal) headboard mounting slots 58), and De Long (note col. 3, lines 19, 20 and mattress 23) are cited as relevant art.

Any inquiry concerning this communication should be directed to Alex Grosz at telephone number (703) 308-2498.

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Grosz/vs  
November 16, 2004

  
ALEXANDER GROSZ  
PRIMARY EXAMINER